



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,587	02/28/2005	Akira Sano	JP920020141US1	3809
48916	7590	07/29/2009		
Greg Goshorn, P.C. 9600 Escarpment Suite 745-9 AUSTIN, TX 78749				
EXAMINER				
BENOIT, ESTHER				
ART UNIT		PAPER NUMBER		
2442				
MAIL DATE		DELIVERY MODE		
07/20/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/526,587

**Applicant(s)**

SANO, AKIRA

**Examiner**

ESTHER BENOIT

**Art Unit**

2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 and 21-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendments***

1. Claims 8 and 21-30 are pending in this application. Claim 8 has been amended. Claims 21-30 are newly added.

***Response to Arguments***

2. Applicant's arguments, see Remarks, filed 04/23/2009, with respect to the rejection(s) of claim(s) 8 under 102(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Zhang et al. (US 7,177,862 B2) and Sedukhin (US 2004/0030627 A1).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 8 and 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al. (US 7,177,862 B2), in view of Sedukhin (US 2004/0030627 A1).

**With respect to claim 8**, Zhang discloses transmitting a search request for a service from a service requester to a management site that searches for software

services provided via a network (Col. 3, lines 64-67 and Col. 4, lines 1-18); selecting by the service requester at least one software service based on the obtained search result (Col. 5, lines 27-48); and transmitting a request to execute the selected service to the service provider (Col. 5, lines 27-48).

Zhang does not explicitly disclose obtaining by the search requester a service search result from the management site including information for determining the quality of services from a provider site.

However, Sedukhin discloses obtaining by the search requester a service search result from the management site including information for determining the quality of services from a provider site ([0067])

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Zhang to include the teachings of Sedukhin to include a search result that incorporates QOS information *because* it will allow requested software services to be guaranteed a certain level of performance when delivered to the requester.

**With respect to claim 21**, Zhang discloses wherein the service provider and the management site are different sites (Col. 3, lines 64-67 and Col. 4, lines 1-18).

**With respect to claim 22**, Zhang discloses wherein the information includes a number of times the software services have been used, a frequency of use corresponding to the software services; an execution time corresponding to the software services and a maintenance time corresponding to the software services (Abstract).

**With respect to claim 23**, Zhang discloses wherein the information includes a service history resulting from execution of the service (Abstract). .

**With respect to claim 24**, Zhang discloses a at least two service providers for providing a software service (Col. 4, lines 58-63); and a management service comprising a control program for: receiving a service request corresponding to the software service from a service requestor (Col. 3, lines 64-67 and Col. 4, lines 1-18); searching for the at least two service providers (Col. 3, lines 64-67 and Col. 4, lines 1-18); selecting among the at least two service providers (Col. 5, lines 27-48).

Zhang does not explicitly disclose collecting quality of service (QoS) information corresponding to each of the at least two service providers; and transmitting the QoS information to the service requestor.

However, Sedukhin discloses collecting quality of service (QoS) information corresponding to each of the at least two service providers; and transmitting the QoS information to the service requestor ([0067], *QOS analysis*)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Zhang to include the teachings of Sedukhin to include a search result that incorporates QOS information *because* it will allow requested software services to be guaranteed a certain level of performance when delivered to the requester.

**With respect to claim 25**, Zhang discloses the number of times the software service has been used, frequency of use of the software service; execution time of the software service, and maintenance time for the software service (Abstract).

**With respect to claim 26**, Zhang discloses the information comprises a service history resulting from execution of the service (Abstract).

**With respect to claim 27**, the limitations of claim 27 are similar to the limitations of claim 8. Therefore, claim 27 is rejected for the same reasons as claim 8 above. Please see rejection of claim 8.

**With respect to claim 28**, Zhang discloses the service provider and the management site are different sites.

**With respect to claim 29**, Zhang discloses the information includes a number of times the software services have been used, a frequency of use corresponding to the software services; an execution time corresponding to the software services and a maintenance time corresponding to the software services(Abstract).

**With respect to claim 30**, Zhang discloses the information includes a service history resulting from execution of the service (Abstract).

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther Benoit whose telephone number is 571-270-3807. The examiner can normally be reached on Monday through Friday between 7:30 a.m and 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

E.B  
July 13, 2009

/Andrew Caldwell/  
Supervisory Patent Examiner, Art Unit 2442